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MAY 18 2011 ✓

SANDRA K. MARKHAM, Clerk
By: *[Signature]*

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

STEVEN DEMOCKER,

Defendant

P1300CR201001325

RESPONSE TO STATE'S MOTION FOR
SUBPOENA DUCES TECUM

(Hon. Warren Darrow)

The Defendant, by and through undersigned Counsel hereby Responds to the state's Motion for Subpoena Duces Tecum. The Defendant objects to the state's Motion, based on Rule 15.2(g), Arizona Rules of Criminal Procedure, which states:

Disclosure by Order of the Court. Upon motion of the prosecutor showing that the prosecutor has substantial need in the preparation of his or her case for material or information not otherwise covered by Rule 15.2, that the prosecutor is unable without undue hardship to obtain the substantial equivalent by other means, and that disclosure thereof will not violate the defendant's constitutional rights, the court in its discretion may order any person to make such material or information available to the prosecutor. The court may, upon request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive.

(*Id.*, italics added).

The state's basis for the subpoena merely said:

"The State is requesting *potential* evidence from Experian. The State has learned that the defendant downloaded and printed a copy of his own credit report in February of 2008."

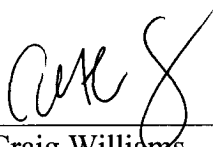
(State's Motion, pg. 1, italics added).

Respectfully, speculation does not equate to a "substantial need." Experian, evidently, respects the privacy of the Defendant and will not release the credit report without a Court Order.

But, how exactly is this just now an issue, more than three years after the fact?

As outlined above, the state has not met the burden imposed by Rule 15.2(g), and their Motion should be denied.

RESPECTFULLY SUBMITTED this May 18, 2011.

By 

Craig Williams
Attorney for the Defendant

Copies of the foregoing delivered this date to:
Hon. Warren Darrow, Judge of the Superior Court
Jeff Paupore, Steve Young, Yavapai County Attorney's Office
The Defendant

By: 